

Notice of Allowability

Application No.

10/695,543

Examiner

William H. Mayo III

Applicant(s)

HAGEN ET AL.

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to ____.
2. ☒ The allowed claim(s) is/are 1-23.
3. ☒ The drawings filed on 28 October 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date ____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>02/05/04</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other ____. |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed February 5, 2004 has been submitted for consideration by the Office. It has been placed in the application file and the information referred to therein has been considered.

Allowable Subject Matter

2. Claims 1-23 are allowed.

3. The following is an examiner's statement of reasons for allowance: This invention deals with a filling material comprising: (a) from about 60 to 95 percent by weight mineral oil; (b) less than about 10 percent by weight block copolymer selected from the group consisting of styrene-ethylene/butylene, styrene-ethylene/propylene, styrene-butadiene-styrene, styrene-isoprene-styrene, styrene-ethylene/butylene-styrene, styrene-ethylene/propylene-styrene, and combinations thereof; (c) less than about 10 percent by weight petroleum wax; (d) less than about 20 percent by weight hollow glass microspheres; and (e) less than about 10 percent by weight thixotropic agent selected from the group consisting of clay, colloidal metal oxide, fumed metal oxide, and combinations thereof (claim 1). This invention also deals with a filler material comprising (a) from about 80.0 to 85.0 percent by weight mineral oil; (b) about 2.5 percent by weight styrene-ethylene/butylene-styrene block copolymer; (c) about 3.0 percent by weight petroleum wax; (d) from about 6.0 to 11.5 percent by weight hollow

glass microsphere; (e) about 3.0 percent by weight surface modified fumed silica; and (f) about 0.2 percent by weight antioxidant or stabilizer (claim 17). The above stated claim limitations is not taught or suggested by the prior art of record. Specifically, while the cited prior art discloses various materials claimed above, none of the prior art teaches or suggests the combination of all of the materials and the cited ranges of each material.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

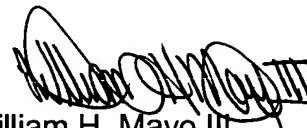
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They are Matsumura et al (Pat Num 5,856,400), Johnson et al (Pat Num 6,218,493), Brookhart et al (Pat Num 6,310,163), and Brookhart et al (Pat Num 6,573,353), all of which disclose various materials for filler materials.

Communication

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Mayo III whose telephone number is (571)-272-1978. The examiner can normally be reached on M-F 8:30am-6:00 pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William H. Mayo III
Primary Examiner
Art Unit 2831

WHM III
September 29, 2004